IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 20TH AUGUST 2007 / 29TH SRAVANA 1929

Bail Appl..No. 5037 of 2007()

CRIME NO.508/07 OF KASARAGOD POLICE STATION

: PETITIONER/ACCCUSED:

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1. THOMAS RODRIGUS, AGED 32 YEARS,
S/O. DANIAL RODRIGUS, RESIDING AT ANANTHODU,
KOLLANGANAM, MADHUR VILLAGE, KASARAGOD DISTRICT.

2. STANY RODRIGUS, AGED 30 YEARS,
S/O. DANIAL RODRIGUS, RESIDING AT ANANTHODU,
KOLLANGANAM, MADHUR VILLAGE, KASARAGOD DISTRICT.

3. JAYA PRAKASH, AGED 23 YEARS,
S/O. DANIAL RODRIGUS, RESIDING AT ANANTHODU,
KOLLANGANAM, MADHUR VILLAGE, KASARAGOD DISTRICT.

BY ADV. SRI.T.K.VIPINDAS

RESPONDENTS: COMPLAINANT:

STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM, REPRESENTING
S.H.O. KASARAGOD POLICE STATION.

BY PUBLIC PROSECUTOR JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 20/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

B.A.No.5037 of 2007

Dated this the 20th day of August, 2007

ORDER

Application for anticipatory bail. The petitioners face allegations, inter alia, under Section 326 I.P.C. On account of prior animosity, the petitioners had allegedly attacked the defacto complainant with dangerous weapons. He has suffered a grievous hurt also. The crime has been registered. Investigation is in progress. The petitioners apprehend imminent arrest.

2. The learned counsel for the petitioners submits that the petitioners are absolutely innocent. They were not actually the aggressors. There was an earlier incident in which one of the petitioners was allegedly attacked by the alleged victims in this crime. Because of such animosity wild allegations are now being raised. The learned counsel for the petitioners prays that anticipatory bail may be granted to the petitioners.

3. The learned Public Prosecutor opposes the application. The learned Public Prosecutor submits that the injury suffered is grievous. The incident in this case had taken place only on 25.07.07. The mere fact that one of the petitioners had suffered injuries and was in the hospital from 23.07.07 to 24.07.07 as shown in Annexure-A1

cannot in any way have any relevance to the claim for anticipatory bail in this crime. This petition may, in these circumstances, be dismissed, prays the learned Public Prosecutor.

4. Having considered all the relevant facts and circumstances of this case, I am persuaded to agree that there is merit in the opposition by the learned Public Prosecutor . This, I am satisfied, is a fit case where the petitioners must appear before the Investigating Officer or the learned Magistrate having jurisdiction and then seek regular bail in the ordinary course. I am unable to find any features in this case which would justify invocation of the extraordinary equitable discretion under Section 438 Cr.P.C.

5. This application is, in these circumstances, dismissed, but I may hasten to observe that if the petitioners surrender before the Investigating Officer or the learned Magistrate and apply for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously.

(R.BASANT, JUDGE)

rtr/-